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10/714,372	11/17/2003	Bradford D. Remole	413TD	1847

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EXAMINER

KLEBE, GERALD B

ART UNIT PAPER NUMBER

3618

DATE MAILED: 10/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/714,372

Applicant(s)

REMOLE, BRADFORD D.

Examiner

Gerald B. Klebe

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 November 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

*G.B. Klebe*  
*27 Sept 2004*

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/17/2003.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Specification - Objections***

1. The specification is objected-to for failing to identify the transverse support, item 59, connecting the broadened, closed foot members of the frame.

Appropriate correction is required.

### ***Drawings - Objections***

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "58" has been used to designate both the U-shaped bracket and the transverse support (which the examiner conjectures should be designated as item 59). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

## **INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

### **Replacement Drawing Sheets**

Drawing changes must be made by presenting replacement figures which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments, or remarks, section of the amendment. Any replacement drawing sheet must be identified in the top margin as "Replacement Sheet" (37 CFR 1.121(d)) and include all of the figures appearing on the immediate prior version of the sheet,

Art Unit: 3618

even though only one figure may be amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin.

### **Annotated Drawing Sheets**

A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheets must be clearly labeled as "Annotated Marked-up Drawings" and accompany the replacement sheets.

### **Timing of Corrections**

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

### ***Claims Rejections - 35 USC § 112, 2<sup>nd</sup> Paragraph***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 8 recites the limitation "said planar member" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

***Claims Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Imai et al. (US 5338054).

Imai et al. discloses a portable wheeled dolly (Fig 1, item 1) for transporting a receptacle of articles, where the dolly includes a convertible chair, and comprises:

(re: claim 1)

a.) a frame composed of a pair of spaced-apart tubular, elongated members (Fig 1, items 2, 3) with a U-shaped handle member (refer to the shape of the handle as shown in Fig 4) having a pair of free legs (items 9, left and right) for engagement with a first end (taken as the top end) of the tubular members (2, 3);

b.) the elongated members (2, 3) having second ends (taken as their not-separately-numbered bottom ends, labeled as items “A” and “B” in the Examiner’s Mark-up of Figures 1, and 3-5, attached hereto) joined together by a fixed bracing support (taken as the Examiner’s Mark-up of Fig 1 as item “C”), the second (that is, bottom) ends further provided with rotatable wheels (5) spaced vertically along the elongated members (as clearly understood from Fig 4);

c.) a pivotal platform Fig 1, item 4) hingedly mounted to the tubular members along a midpoint of the tubular members (best understood from Figs 3 and 5), the pivotal platform mounting a pivotal leg (item “D” in the Examiner’s Mark-up of Figs 1 and 3-5) remote from the

Art Unit: 3618

tubular members (2, 3) and extendable from a position adjacent to the platform (refer Fig 5) to a position perpendicular thereto (refer Fig 3); and

(re: claim 2)

wherein means are provided to secure the U-shaped handle to the tubular members (inherent that the handle would be secured to the vehicle; refer col 4, lines 20-24).

EXAMINER'S NOTE: The functional "whereby" and "where" recitations of claim 1 have been given no patentable weight since it has been held that such functional statements do not define any structure and accordingly can not serve to distinguish. *In re Mason*, 114 USPQ 127, 44 CCPA 937 (1957).

### ***Claims Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin (US 6082757) in view of Tsai (US 5695246).

A. Lin discloses a portable wheeled dolly for transporting a receptacle of articles, where the dolly includes a convertible chair and comprises:

(re: claim 1)

a.) a frame composed of a pair of spaced apart tubular, elongated members (12) with a U-shaped handle member (13) having a pair of free legs for engagement (using item 102) with a first end of the tubular members (12) ;

Art Unit: 3618

b.) the elongated members having second ends (taken as the lower ends of 12; not separately numbered in the reference) joined together by a fixed bracing support (17), the second ends further provided with rotatable wheels (18) spaced vertically along the elongated members (12); and

c.) a pivotal platform (11) hingedly mounted (note their connection as shown in Figs 8-1 and 8-2) to the tubular members (12) along a midpoint of the tubular members; and  
(re: claim 2)

wherein means (item 102) are provided to secure the U-shaped handle (13) to the tubular members (12) .

B. Lin lacks explicit disclosure of the further limitation of claim 1 wherein the pivotal platform mounts a pivotal leg remote from the tubular members and extendable from a position adjacent to the platform to a position perpendicular to the platform.

C. However, Tsai teaches a portable wheeled dolly for transporting a receptacle of articles, and having a pivotal platform (20) hingedly mounted to a frame of the dolly (see Fig 4) and mounting a pivotal leg (30) remote from the frame of the dolly and extendable from a position adjacent to the platform (Fig 5) to a position perpendicular to the platform (Fig 6).

D. Therefore, it would have been obvious to one of ordinary skill in the art at the time the instant invention was made to have modified the pivotal platform of the dolly of Lin to include a pivotal leg hinged to the platform at a point remote from the frame and being extendable from a position adjacent the platform to a position perpendicular to the platform in order to provide a supporting leg that can be folded along with the rest of the frame of the vehicle for a more compact storage volume.

Art Unit: 3618

E. Regarding claim 3 wherein the pivotal leg (30) includes a cap to override a free end of the leg, Tsai teaches this limitation as well (Fig 6, item 45) so it would have been obvious to one skilled in the art to include a cap over the end of the leg in order to help prevent the leg from digging into a soft supporting surface on which it might be stood in its static mode when used as a seat.

EXAMINER'S NOTE: The functional "whereby" and "where" recitations of claim 1 have been given no patentable weight since it has been held that such functional statements do not define any structure and accordingly can not serve to distinguish. *In re Mason*, 114 USPQ 127, 44 CCPA 937 (1957).

9. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin (US 6082757) in view of Tsai (US 5695246) and further in view of Puckett (US 2991035).

As discussed above, the combination of Lin (-757) and Tsai (-246) discloses all of the features of claim 3 from which claims 4-5 depend.

The combination of Lin (-757) and Tsai lacks explicit disclosure wherein the portable wheeled dolly includes locking means comprising a pair of pivotal arms with a first arm pivotally mounted to the pivotal platform and a second arm pivotally mounted to the pivotal leg in order to secure the pivotal platform in the static mode.

However, Puckett teaches a portable wheeled dolly with a pivotal platform (Fig 1, item 10) including locking means to secure the pivotal platform in the static mode wherein the locking means comprises a pair of pivotal arms (66, 68) with a first arm pivotally mounted (at 72) to the pivotal platform and a second arm pivotally mounted (at 70) to the pivotal leg.



Art Unit: 3618

Therefore, it would have been obvious to one of ordinary skill in the art at the time the instant invention was made to have modified the combination of Lin (-757) and Tsai (-246) to have a pair of pivotably connected links hingedly mounted one to the platform and one to the pivotal leg, respectively, in order to provide a more robust locking means that simultaneously secured both the platform and the pivotal leg from unintentional collapse/folding.

10. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Lin (US 6082757) and Tsai (US 5695246) in view of Puckett (US 2991035) as applied to claim 4 and further in view of Bonewicz, Jr. et al. (US 4887837).

As discussed above, the combination of Lin (-757), Tsai (-246) and Puckett (-035) discloses all of the features of claim 4 from which claims 6-7 depend.

The combination of Lin (-757), Tsai and Puckett as applied to claim 4 lacks explicit disclosure of features of the pivotal platform that it comprises a planar member of recited limitations of claims 6 and 7 wherein the underside further includes a pair of spaced apart brackets for pivotally mounting the pivotal leg.

However, Bonewicz, Jr. et al. teaches a portable wheeled dolly having a pivotal platform (24) supported with pivotally connected leg (94) remote from the frame (20) of the dolly wherein the platform comprises a planar member that functions as the supporting surface for the receptacle and having a downwardly extending side wall (combination of 64, 66, 70, and 72) and U-shaped support frame within the side walls and secured to the underside of the planar member wherein the underside further includes a pair of spaced- apart brackets for pivotally mounting the pivotal leg (refer Figs 3 and 4).

Art Unit: 3618

Therefore, it would have been obvious to one of ordinary skill in the art at the time the instant invention was made to have modified the dolly of the combination of Lin (-757), Tsai and Puckett to have downwardly extending side wall and a U-shaped support frame within the side walls and secured to the underside of the planar member and including a pair of spaced-apart brackets for pivotally mounting the pivotal leg in accordance with the teachings of Bonewicz, Jr. et al. in order to be able to hide the pivotal leg within the underside of the planar member of the pivotal platform for esthetic purposes when not in use in the static mode.

***Prior Art made of Record***

11. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The prior art of Lin (-713), of Smith et al., of Watts, of Cheng (-027), of Ohlsson, of Cheng (-811), and of Vance, each show features common to some of the other structures disclosed in the inventive concept of the instant application.

***Conclusion***

12. Any inquiry concerning this or earlier communication(s) from the examiner should be directed to Gerald B. Klebe at 703-305-0578, fax 703-872-9306; Mon.-Fri., 8:00 AM - 4:30 PM ET, or to Supervisory Patent Examiner Christopher P. Ellis, Art Unit 3618, at 703-308-2560.

Official correspondence should be sent to the following TC 3600 Official Rightfax numbers as follows: Regular correspondence: 703-872-9326; After Finals: 703-872-9327; Customer Service: 703-872-9325.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR


Art Unit: 3618

system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*gbklebe*  
gbklebe / Art Unit 3618 / 27 September 2004

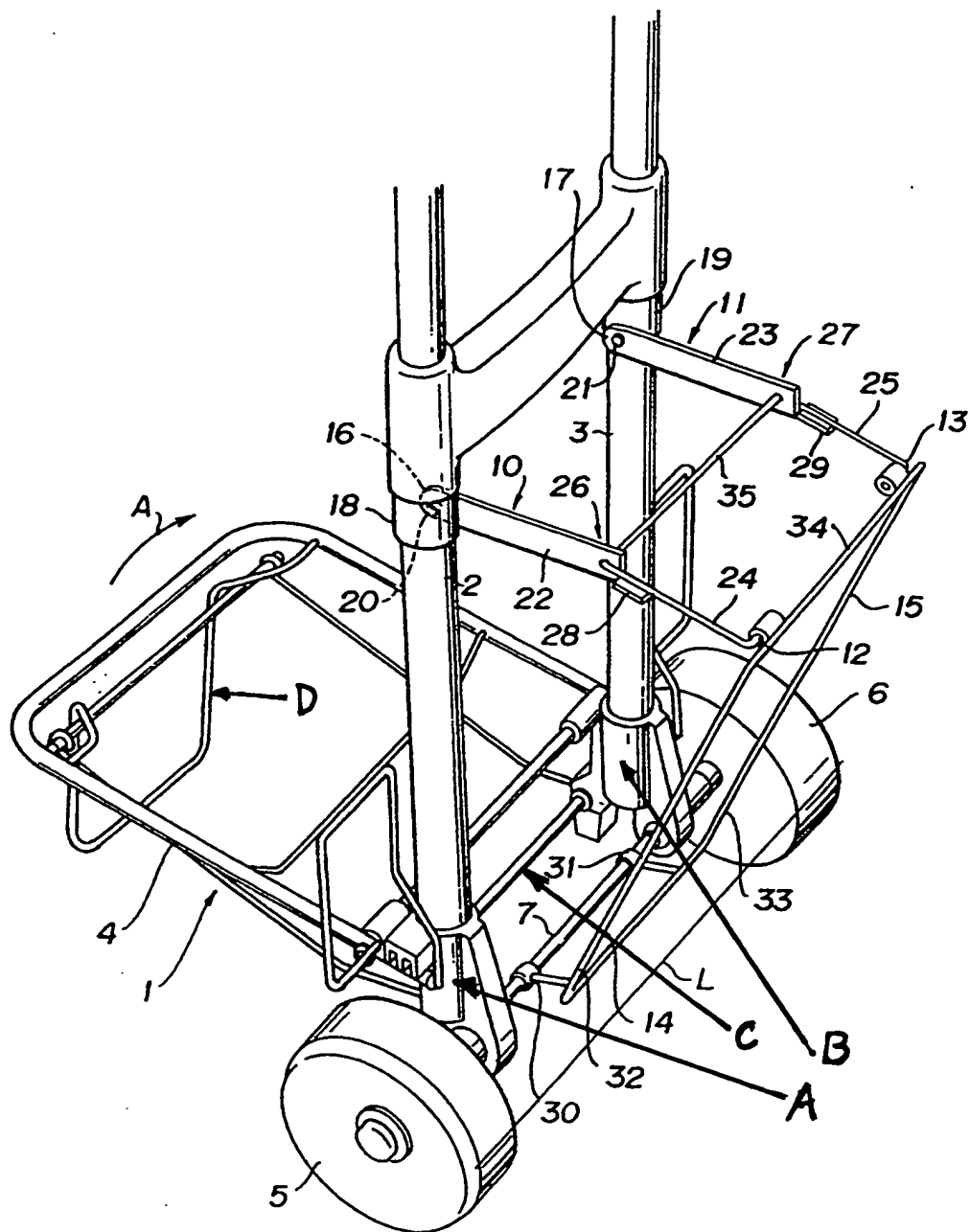
Attachments: Examiner's Mark-up in Explanation of Four Selected Figures of cited Prior Art

Reference US Pat. 5,338,054.

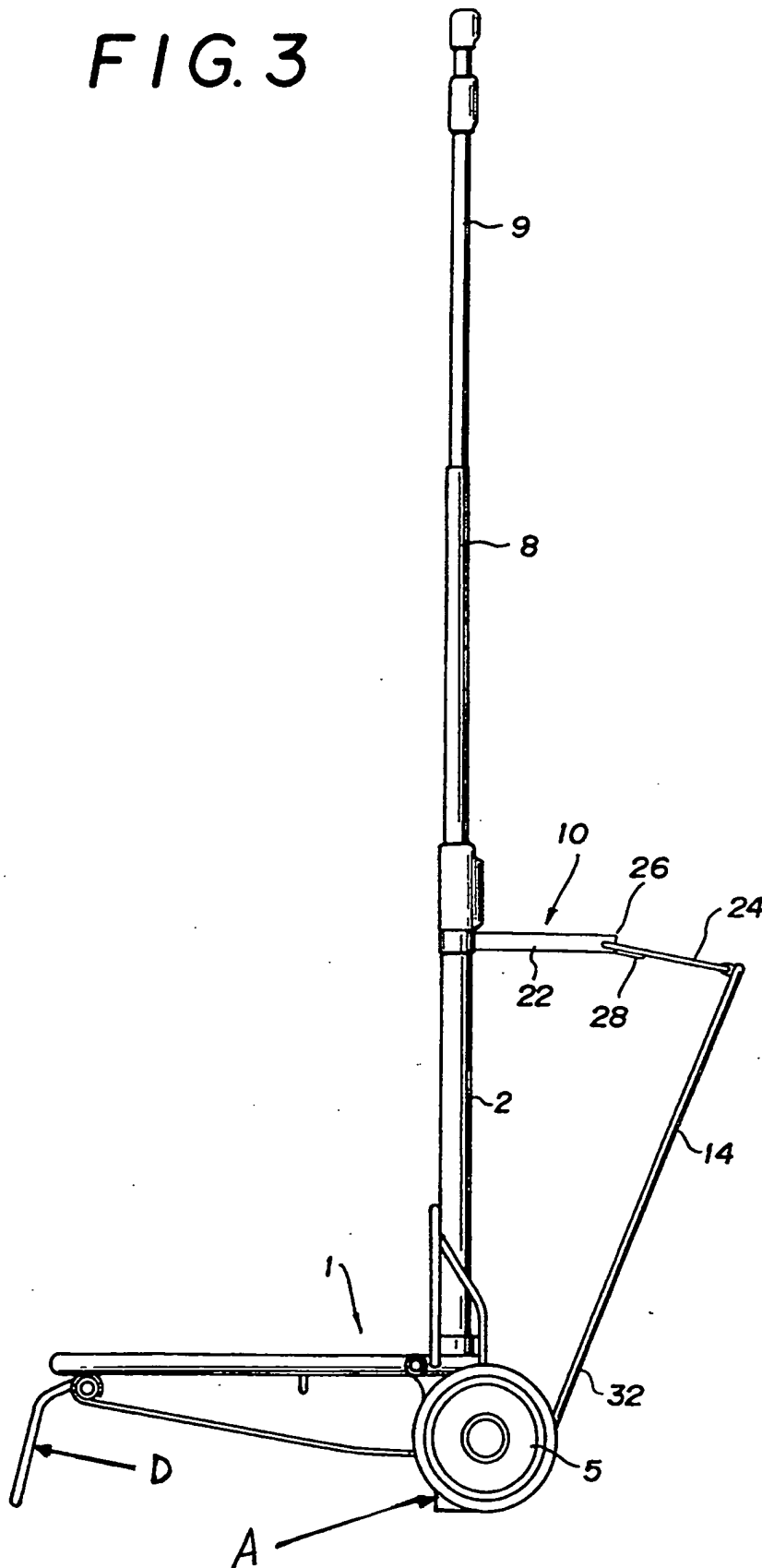
  
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SUPERVISORY PATENT EXAMINER  
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EXAMINER'S MARK-UP RELATIVE TO OFFICE ACTION  
ON SER. NO. 10/714 372

FIG. 1

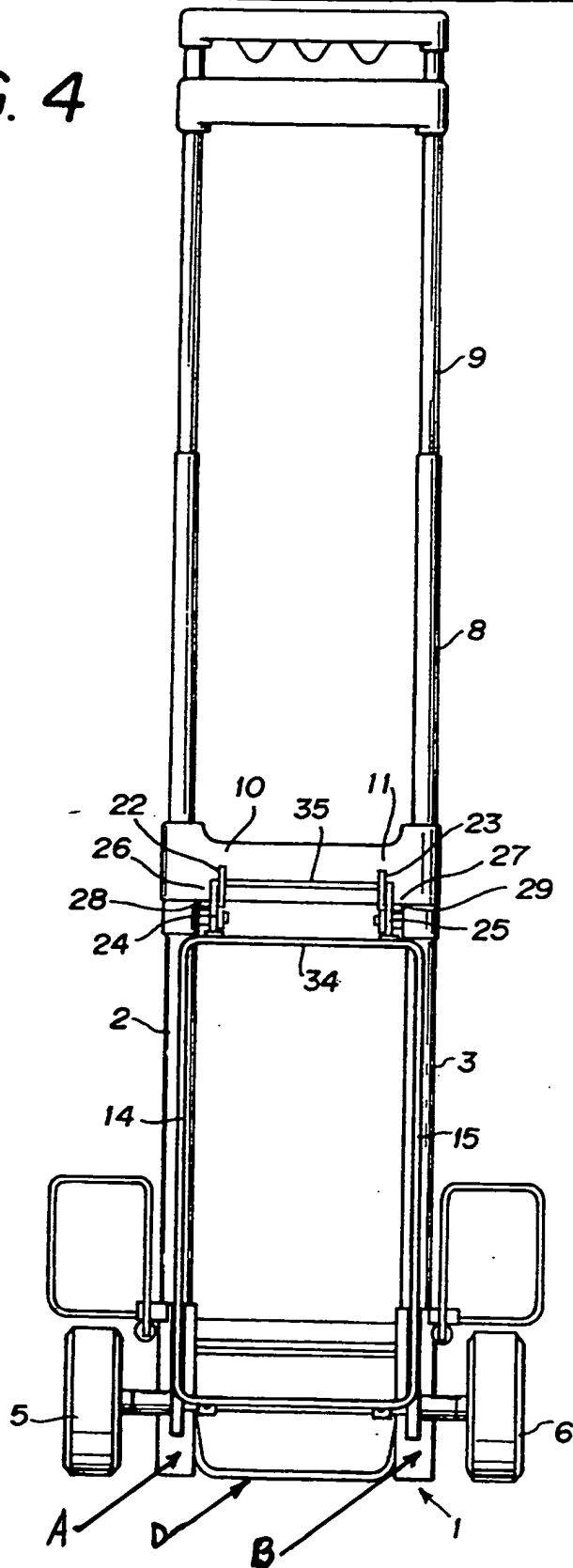


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OFFICE ACTION ON SER. NO. 10/714372

**FIG. 3**

EXAMINER'S MARK-UP RELATIVE TO  
OFFICE ACTION ON SER. NO. 10/714372

FIG. 4



EXAMINER'S MARK-UP RELATIVE TO  
OFFICE ACTION ON SER. NO. 10/714372

FIG. 5

